

RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
TC/A.U. 3761

REMARKS/ARGUMENTS

Claims 1 - 20 are pending.

Pursuant to 37 C.F.R. § 1.116, reconsideration of the present application in view of the following remarks is respectfully requested.

By way of the Office Action mailed January 19, 2005, claims 1, 4, 7 - 10, 12, 14, and 16 - 20 were finally rejected under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. H1298 to Ahr et al. (hereinafter referred to as Ahr) in view of U.S. 4,397,644 to Matthews et al. (hereinafter referred to as Matthews). This rejection is respectfully **traversed** to the extent that it may apply to the pending claims because the cited references do not establish *prima facie* obviousness.

Applicants refer to previously submitted arguments (Response - E; transmitted November 12, 2004) explaining that the cited references are not properly combined because Ahr teaches away from increasing the bulk of an absorbent material. Matthews, however, teaches that by increasing the bulk of a transfer layer in a feminine care pad, comfort for the wearer may be improved. Additionally, Matthews teaches that use of crimped fibers in the transfer layer increases comfort of the wearer. One skilled in the art will readily recognize that crimped fibers can increase the bulk of a nonwoven material. Therefore, Ahr and Matthews teach in opposite directions with regard to the bulk of the materials discussed therein. For this reason, one skilled in the art would not substitute features between these references.

The present Office Action sets forth that this argument is unpersuasive because Ahr is not being modified by the structure of Matthews, but merely the teaching of crimped fibers. However, when determining whether references are combinable, it is necessary to examine the entire teaching of the reference. In this case, it is evident from the overall teaching of Matthews that the improved comfort is attained by increasing the bulk of the material. Therefore, the cited references would not be combined by one of ordinary skill in the art.

Additionally, it is noted that the crimped fibers taught in Matthews are utilized in a transfer layer, not in an absorbent core. There is no suggestion from Matthews that the crimped fibers would provide similar benefit if included in the absorbent core. Therefore, there is no teaching in Matthews to motivate one skilled in the art to substitute the crimped fibers from the transfer layer thereof into the absorbent core of Ahr.

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Finally, it is noted that in response to Applicants' argument that Ahr fails to disclose an expandable absorbent material, the Office Action cites Ahr at column 2, lines 48 – 49, as teaching the ability of the absorbent material to absorb liquid and swell. However, the lines cited by the Office Action more specifically teach "...in unbonded areas the superabsorbent fibers absorb fluid and swell more freely than in bonded areas." This teaching refers to the superabsorbent fibers that are only one component of the absorbent structure taught by Ahr. There is no argument that the superabsorbent fibers are swellable. This does not mean, however, that the absorbent structure taught by Ahr is capable of swelling. There is no express teaching that the absorbent structure of Ahr is expandable, nor is it inevitable that the absorbent structure of Ahr is expandable just because one component of the structure is expandable. It could well be that the thermoplastic fiber component of the absorbent core would restrict the absorbent structure from expanding. This is in large part the problem solved by Applicants' invention.

For the reasons stated above, it is respectfully submitted that the cited combination of references does not meet the criteria for *prima facie* obviousness, and, therefore, the rejected claims are in form for allowance. Additionally, the remaining rejections depend on the combination of references discussed above in further combination with other references that do not address the deficiencies discussed above. Therefore, all the presently pending claims are in form for allowance, and such action is respectfully requested.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 770-587-8626.

Respectfully submitted,
CREAGAN ET AL.

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Certificate of Transmission

I, Richard M. Shane, hereby certify that on March 21, 2005 this document is being facsimile transmitted to the Commissioner for Patents, United States Patent and Trademark Office, fax number 703-872-9306.

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